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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,490

12/31/2003

Priya Govindarajan

42P16364

1801

8791 7590 02/05/2007  
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EXAMINER

TURCHEN, JAMES R

ART UNIT

PAPER NUMBER

2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/750,490

Applicant(s)

GOVINDARAJAN, PRIYA

Examiner

James Turchen

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12/31/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure of the specification is objected to because of the following informalities:

BRIEF SUMMARY OF THE INVENTION is missing. The examiner recommends that applicant include this section in the specification.

***Claim Objections***

Claims 11 and 21 are objected to because of the following informalities: The term "intermediary" lacks antecedent basis within the specification. Examiner recommends changing "intermediary" to monitoring device. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 19-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 19-22 are drawn to an article. The language of the claim raises a question as to whether the claim is directed merely to a functional descriptive material per se that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. The claims are not tangible since the article, as disclosed in the specification, on page 15, last paragraph, refers to program modules including functions, procedures, data structures, application programs.

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To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media because when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 11, 14-16, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Tyree (US 2002/0120853).

Regarding claims 1, 2, 3, 4, 19, and 20:

Tyree discloses FTP and HTTP (paragraph 47) that inherently uses the TCP/IP protocol for file connection. The first step of the three-way handshake of the TCP/IP protocol is the sending of a SYN from a first machine to a second machine. The second step of the three-way handshake is for the second machine to send a SYN-ACK to the first machine. The third step of the three-way handshake is for the first machine to send an ACK packet back to the second machine initiating the session between the two machines. TCP/IP additionally uses sequence numbers with each packet to ensure that data is delivered. The GET command is inherent in the HTTP protocol. The source and

destination IP addresses are included in the TCP/IP header information. Therefore, Tyree inherently discloses receiving an initial (GET) packet from a first machine to a second machine as well as disclosing sending a test to the first machine resistant to automatic answering (paragraph 72), and establishing the communication session between the first and second machines after a valid response is received (figure 2, 208-216 and paragraphs 72-77).

Regarding claim 5:

Tyree discloses sending the secret unknown to the second machine (the Turing test, paragraphs 85-91) as well as inherently sending the source and destination address due to the TCP/IP protocol.

Regarding claim 6:

Tyree discloses receiving an answer from the first machine, decoding a tentative connection state (an answer), determining if the answer is correct (figure 2, 208-216 paragraphs 85-91).

Regarding claims 7 and 8:

Tyree discloses preparing a web page embodying the test (paragraph 72) and sending the web page to the first machine (paragraphs 85-91), and the test is embodied in a web page (figure 5).

Regarding claims 11, 14, 15, and 21:

Tyree discloses FTP and HTTP (paragraph 47) that inherently uses the TCP/IP protocol for file connection. The first step of the three-way handshake of the TCP/IP protocol is the sending of a SYN from a first machine to a second machine. The second

step of the three-way handshake is for the second machine to send a SYN-ACK to the first machine. The third step of the three-way handshake is for the first machine to send an ACK packet back to the second machine initiating the session between the two machines. TCP/IP additionally uses sequence numbers with each packet to ensure that data is delivered. The GET command is inherent in the HTTP protocol as well as HTTP is inherently stateless. The source and destination IP addresses are included in the TCP/IP header information. Tyree additionally discloses sending a test to the networking application program (paragraph 72).

Regarding claim 16:

Tyree discloses a web browser and the test comprising a web page (figure 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9, 10, 12, 13, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tyree as applied to claims 1, 11, and 21 above, and further in view of Watson et al. (US 6,779,033 B1).

Regarding claims 9 and 10:

Tyree discloses all of the limitations of claim 1 and also discloses having a list that identifies machines that have provided a valid response (paragraphs 81-83). Tyree does not disclose a monitoring device. Watson discloses an intermediary that receives the communication request from a client (first machine) and establishes a connection between the intermediary and the second machine or server (column 3 lines 19-59). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the method of claim 1 and the white listing method of Tyree with Watson et al's method of using and intermediary in order to include packet validity checking which can detect spoofed, fictitious, and inactive addresses without requiring state allocation or compromising connection robustness (column 3 lines 10-16).

Regarding claims 12, 13, and 22:

Tyree discloses all of the limitations of claims 11 and 21 and also discloses receiving a response to the test from the client and determining if the response comprises a valid answer to the test (paragraphs 85-91). Tyree does not disclose an intermediary. Watson discloses an intermediary that establishes a second network connection between the monitoring device and the server and facilitating the connection (column 3 lines 19-59). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the method of claim 1 and the method of receiving a



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response and validating the response of Tyree with Watson et al's method of using and intermediary in order to include packet validity checking which can detect spoofed, fictitious, and inactive addresses without requiring state allocation or compromising connection robustness (column 3 lines 10-16).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson et al. in view of Tyree.

Watson et al discloses a protected server, a client machine, and a monitoring device interposed between the server and the client, wherein the monitoring device is configured to facilitate establishing the client communication with the server. The first two steps of the TCP/IP handshake read on claim 18. Watson et al does not disclose sending a test resistant to automatic answering. Tyree discloses sending a test to the client and allowing the connection to continue if a valid response is received (paragraphs 85-91). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the intermediary system of Watson et al. with the testing system of Tyree in order to ensure that the client is a valid human user (abstract).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art discloses alternate intermediary systems.

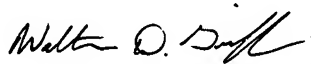
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Turchen whose telephone number is 571-270-1378. The examiner can normally be reached on MTWRF 7:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walt Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRT

  
WALTER D. GRIFFIN  
SUPERVISORY PATENT EXAMINER